



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB1636

Introduced 2/20/2015, by Sen. Darin M. LaHood

SYNOPSIS AS INTRODUCED:

705 ILCS 405/2-25

from Ch. 37, par. 802-25

Amends the Juvenile Court Act of 1987 concerning abused, neglected, and dependent minors. Provides that if the court makes an order of protection, the order may extend until the minor reaches 18 years of age. Provides that the order may require a person to abstain from offensive conduct against any person who adopts the minor or to refrain from contacting the adoptive parents in any manner that is not specified in writing in the case plan. Provides that the Department of Children and Family Services may seek an order of protection during a proceeding to terminate parental rights that may remain in effect until the minor reaches 18 years of age. Provides that after termination of parental rights, the Department may seek an order of protection for the minor at the request of foster or adoptive parents of the minor that may remain in effect until the minor reaches 18 years of age.

LRB099 05470 RLC 30895 b

1 AN ACT concerning courts.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Juvenile Court Act of 1987 is amended by
5 changing Section 2-25 as follows:

6 (705 ILCS 405/2-25) (from Ch. 37, par. 802-25)

7 Sec. 2-25. Order of protection.

8 (1) The court may make an order of protection in assistance
9 of or as a condition of any other order authorized by this Act.
10 The order of protection shall be based on the health, safety
11 and best interests of the minor and may set forth reasonable
12 conditions of behavior to be observed for a specified period.
13 The order of protection may extend until the minor reaches 18
14 years of age. Such an order may require a person:

15 (a) to stay away from the home or the minor;

16 (b) to permit a parent to visit the minor at stated
17 periods;

18 (c) to abstain from offensive conduct against the
19 minor, his parent or any person to whom custody of the
20 minor is awarded or any person who adopts the minor;

21 (d) to give proper attention to the care of the home;

22 (e) to cooperate in good faith with an agency to which
23 custody of a minor is entrusted by the court or with an

1 agency or association to which the minor is referred by the
2 court;

3 (f) to prohibit and prevent any contact whatsoever with
4 the respondent minor by a specified individual or
5 individuals who are alleged in either a criminal or
6 juvenile proceeding to have caused injury to a respondent
7 minor or a sibling of a respondent minor;

8 (g) to refrain from acts of commission or omission that
9 tend to make the home not a proper place for the minor;

10 (h) to refrain from contacting the minor and the foster
11 or adoptive parents in any manner that is not specified in
12 writing in the case plan.

13 (2) The court shall enter an order of protection to
14 prohibit and prevent any contact between a respondent minor or
15 a sibling of a respondent minor and any person named in a
16 petition seeking an order of protection who has been convicted
17 of heinous battery or aggravated battery under subdivision
18 (a)(2) of Section 12-3.05, aggravated battery of a child or
19 aggravated battery under subdivision (b)(1) of Section
20 12-3.05, criminal sexual assault, aggravated criminal sexual
21 assault, predatory criminal sexual assault of a child, criminal
22 sexual abuse, or aggravated criminal sexual abuse as described
23 in the Criminal Code of 1961 or the Criminal Code of 2012, or
24 has been convicted of an offense that resulted in the death of
25 a child, or has violated a previous order of protection under
26 this Section.

1 (3) When the court issues an order of protection against
2 any person as provided by this Section, the court shall direct
3 a copy of such order to the Sheriff of that county. The Sheriff
4 shall furnish a copy of the order of protection to the
5 Department of State Police within 24 hours of receipt, in the
6 form and manner required by the Department. The Department of
7 State Police shall maintain a complete record and index of such
8 orders of protection and make this data available to all local
9 law enforcement agencies.

10 (4) After notice and opportunity for hearing afforded to a
11 person subject to an order of protection, the order may be
12 modified or extended for a further specified period or both or
13 may be terminated if the court finds that the health, safety,
14 and best interests of the minor and the public will be served
15 thereby.

16 (5) (a) An order of protection may be sought at any time
17 during the course of any proceeding conducted pursuant to this
18 Act if such an order is consistent with the health, safety, and
19 best interests of the minor. Any person against whom an order
20 of protection is sought may retain counsel to represent him at
21 a hearing, and has rights to be present at the hearing, to be
22 informed prior to the hearing in writing of the contents of the
23 petition seeking a protective order and of the date, place and
24 time of such hearing, and to cross examine witnesses called by
25 the petitioner and to present witnesses and argument in
26 opposition to the relief sought in the petition.

1 (b) The Department of Children and Family Services may seek
2 an order of protection under this Section during a proceeding
3 to terminate parental rights that may remain in effect until
4 the minor reaches 18 years of age. After termination of
5 parental rights, the Department may seek an order of protection
6 for the minor at the request of foster or adoptive parents of
7 the minor that may remain in effect until the minor reaches 18
8 years of age.

9 (6) Diligent efforts shall be made by the petitioner to
10 serve any person or persons against whom any order of
11 protection is sought with written notice of the contents of the
12 petition seeking a protective order and of the date, place and
13 time at which the hearing on the petition is to be held. When a
14 protective order is being sought in conjunction with a
15 temporary custody hearing, if the court finds that the person
16 against whom the protective order is being sought has been
17 notified of the hearing or that diligent efforts have been made
18 to notify such person, the court may conduct a hearing. If a
19 protective order is sought at any time other than in
20 conjunction with a temporary custody hearing, the court may not
21 conduct a hearing on the petition in the absence of the person
22 against whom the order is sought unless the petitioner has
23 notified such person by personal service at least 3 days before
24 the hearing or has sent written notice by first class mail to
25 such person's last known address at least 5 days before the
26 hearing.

1 (7) A person against whom an order of protection is being
2 sought who is neither a parent, guardian, legal custodian or
3 responsible relative as described in Section 1-5 is not a party
4 or respondent as defined in that Section and shall not be
5 entitled to the rights provided therein. Such person does not
6 have a right to appointed counsel or to be present at any
7 hearing other than the hearing in which the order of protection
8 is being sought or a hearing directly pertaining to that order.
9 Unless the court orders otherwise, such person does not have a
10 right to inspect the court file.

11 (8) All protective orders entered under this Section shall
12 be in writing. Unless the person against whom the order was
13 obtained was present in court when the order was issued, the
14 sheriff, other law enforcement official or special process
15 server shall promptly serve that order upon that person and
16 file proof of such service, in the manner provided for service
17 of process in civil proceedings. The person against whom the
18 protective order was obtained may seek a modification of the
19 order by filing a written motion to modify the order within 7
20 days after actual receipt by the person of a copy of the order.
21 Any modification of the order granted by the court must be
22 determined to be consistent with the best interests of the
23 minor.

24 (9) If a petition is filed charging a violation of a
25 condition contained in the protective order and if the court
26 determines that this violation is of a critical service

1 necessary to the safety and welfare of the minor, the court may
2 proceed to findings and an order for temporary custody.

3 (Source: P.A. 96-1551, Article 1, Section 955, eff. 7-1-11;
4 96-1551, Article 2, Section 1030, eff. 7-1-11; 97-1109, eff.
5 1-1-13; 97-1150, eff. 1-25-13.)